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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,333	02/06/2004	Hans Pedersen	12130-18us GH/ik	1116
20988	7590	03/11/2005	EXAMINER	
OGILVY RENAULT			MULLER, BRYAN R	
1981 MCGILL COLLEGE AVENUE				
SUITE 1600			ART UNIT	
MONTREAL, QC H3A2Y3			PAPER NUMBER	
CANADA			3723	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,333

Applicant(s)

PEDERSEN ET AL.

Examiner

Bryan R Muller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 1,3 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. The phrase, "sliding supporting" in line 14 of page 2 and any other occurrence should be changed to, "slidingly supporting".
 - b. The reference characters, 6.1, 7.1, 16.1 and 7.11 on pages 4-6 do not appear in the drawings. It appears that they should be changed to 6', 7', 16' and 7", respectively.
 - c. The reference character 27, on page 5, is described as a top surface but does not appear to be referencing a top surface in the drawings.
 - d. The reference character 53, on page 6, is described as a conveyor but does not appear to be referencing a conveyor in the drawings.Appropriate correction is required.

Drawings

2. The drawings are objected to because the reference characters 27 and 53, found on pages 5 and 6 respectively do not appear to be referencing the corresponding parts described in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

"amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 1 objected to because of the following informalities: In line 3, the phrase, "sliding supporting" should be changed to, "slidingly supporting" and the term, "abrade" in line 11 should be changed to, "abraded". Appropriate correction is required.
4. Claim 3 objected to because of the following informalities: Claim 3, as written, is dependent on itself. As best understood by the examiner, this claim is to be dependent upon either claim 1 or 2 and will be prosecuted as such. Appropriate correction is required.
5. Claim 5 objected to because of the following informalities: In line 4, the term, "or" should be changed to, "of". Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 3 recites the several components that are not previously mentioned because the claim, as written, is dependent upon itself. There is insufficient antecedent basis for these limitations in the claim.

8. Claim 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Because the claim, as written, is dependent upon itself, the claim fails to distinctly claim the applicant's invention.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Castonguay (6,109,906).

11. In reference to claim 1, Castonguay discloses an apparatus for treating concrete blocks comprising an in-line conveyor displaceable over stationary horizontal support surfaces (part of frame 24, best seen in fig. 2) for slidably supporting a lower face of

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concrete blocks displaced thereon by said conveyor, said in-line conveyor having at least two pairs of spaced apart vertically supported conveyor belts (40/46 and 38/44) disposed to engage opposed side faces of said concrete blocks to displace them along said stationary horizontal support surface, one of said pairs of conveyor belts (40/46) engaging said opposed side faces in a lower surface section thereof to expose an upper surface section thereof to be abraded by respective surface abrading devices (80/82), the other of said pairs of conveyor belts (38/44) engaging said opposed side faces in said upper surface section thereof to be abraded by further respective surface abrading devices. The conveyor belts are inherently vertically and horizontally supported to keep them in place.

12. In reference to claims 2-4, the abrading device (70) of Castonguay is located along the in-line conveyor and acts to abrade a top surface, top side edge of opposed side faces and lower side edge of opposed side faces of the concrete blocks conveyed by the pairs of conveyor belts. While the blocks are held by the first pair of conveyors (40/46) the abrading device abrades the top surface and top side edges of opposed side faces and when the blocks are held by the second pair of conveyors (38/44) the abrading device abrades the lower side edges of opposed side faces of the blocks. It is clearly shown in figure 5 that the abrading device abrades both the top surface and at least a portion of the top side edges of opposed side faces (block 26) as well as at least a portion of the lower side edges of opposed side faces of the blocks (block 28).

13. In reference to claim 10, the pairs of spaced apart vertically supported belts are inherently pressure biased against the opposed side faces of the concrete blocks. It is

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necessary for the belts to be pressure biased to apply gripping and moving forces upon the blocks.

14. In reference to claim 11, the invention of Castonguay further discloses that the conveyor belts of said two pairs of conveyor belts are each trained between a pair of pulleys (39, 41, 51 and 53), at least one said pulleys being adjustable (two slots are shown on the mounting plate of pulley 39, which allows the position of the pulley to be adjusted), displaceable to adjust the tension of its associated conveyor belt, a straight backing wall disposed behind a straight run of said conveyor belt which is in contact with concrete blocks conveyed thereby, said straight backing wall being adjustably displaceable in parallel relationship to an opposed wall of the other conveyor belt to receive blocks of different widths between said pairs of conveyor belts. The straight backing wall in the Castonguay invention is a support section of the belt itself, the belt clearly show a contacting faces attached to a series of supporting linkages that act as a straight backing wall behind the straight run of the conveyor belt. The backing wall is adjustably displaceable in parallel relationship to an opposed wall of the other conveyor belt in that the entire upper conveyor is displaceable, thus moving the straight wall in a parallel relationship to an opposed wall and allowing the apparatus to receive blocks of different widths.

15. In reference to claim 12, the straight backing wall in the Castonguay invention is inherently pressure biased against its associated belt straight run to apply pressure of straight run against said concrete blocks side faces because the tension on the belt and

backing wall created by the spacing of the pulleys will bias the backing wall to press the contacting surface against the block.

Claim Rejections - 35 USC § 102/103

16. Claims 7 and 15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Castonguay ('906).

17. In reference to claim 7, Castonguay discloses the apparatus discussed supra wherein the abrading device is comprised by a plurality of chains secured to a motor driven axle assembly secured to a support frame and oriented to impact onto specific areas of said concrete blocks. Castonguay fails to disclose that the chains are made of steel but it would have been obvious to one of ordinary skill in the art at the time the invention was made that steel would be a preferred material for the chains because it is known to be strong, durable and readily available, and because many metal chains are currently made of steel so it would not require any special production.

18. In reference to claim 15, Castonguay discloses the apparatus discussed supra wherein the stationary horizontal support surface is constituted by one or more straight flat bars disposed along a straight conveyor path. The supports are clearly made of straight flat bars disposed along a straight conveyor path but Castonguay fails to disclose that the bars are made of steel. Again, it would have been obvious to one of ordinary skill in the art at the time the invention was made that steel would be a preferred material for the bars because it is known to be strong, durable and readily

available, as well as relatively easy to machine and weld, making it an obvious choice to provide strong durable supports while allowing for fast and relatively easy production.

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castonguay ('906) in view of Butterworth (1,229,582).

21. Castonguay discloses the apparatus as discussed supra, but fails to disclose that the apparatus further comprises a top surface finishing abrading device to smoothen a top rough surface wherein the last one of the top surface abrading devices is a rotating brush. Butterworth discloses a method of making bricks wherein the last abrading device to contact the top surface of the bricks is a brush (23) that provides a desirable (smoothing) finish free of all traces of cracks or lines (lines 49-56) and the light effect produced on the bricks shall be soft and light-absorbing rather than light-reflecting (lines 20-23), which is also desirable. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Castonguay invention with a smoothing top surface abrading device consisting of a rotating brush as a last top surface abrading device to finish the top surface of the blocks in a manner that would provide a desirable finish as taught by Butterworth.

22. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castonguay ('906) in view of Colgren (1,877,269).

23. Castonguay discloses the apparatus as discussed supra, but fails to disclose that the support frame is an adjustable support frame, and means to displace the support frame to position the abrading device secured thereto at a desired position relative to said concrete blocks. Colgren discloses a stone milling machine comprising abrading devices for abrading the top bottom and sides of a stone piece wherein the positions of the abrading devices relative to the stone piece are all adjustable to account for different sized work pieces and provide the ability to alter the work performed to the stone to produce a desired finish. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the support frame of Castonguay such that location of the abrading device relative to the blocks is adjustable to allow for different sized blocks and to adjust abrading process to achieve a desired finish, as taught by Colgren.

24. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castonguay ('906) in view of Colgren (1,877,269) as applied to claim 8 and further in view of Anderson (5,979,002).

25. The combination of Castonguay and Colgren provides the apparatus as discussed supra, and that the motor driven axle is connected to an electric motor but fails to disclose that electric motor is secured to said support frame by a pivot

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adjustment bracket to permit said motor and associated axle to be positioned at a tilt angle. Anderson discloses a vehicle washing machine, which is an unrelated art, but the novelty of his invention would also be usable and desirable in the art of the current application. The machine of Anderson provides a rotating brush (80) that is driven by an axle (74) that is connected to a motor (84) secured to a support frame (60) by a pivot adjustment bracket (58) to permit said motor and associated axle to be positioned at a tilt angle and the motor and brush are biased towards the work piece to ensure that the brush maintains constant contact with the work piece. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mount the electric motor of Castonguay to the support frame using a pivot adjustment bracket and to bias the tilt of the motor towards the blocks to ensure continuous contact with the side of the block being abraded, as taught by Anderson, to provide an even finish to blocks of varying sizes.

26. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castonguay ('906) in view of Pedersen (CA 2392934).

27. Castonguay discloses the apparatus as discussed supra, but fails to disclose that the apparatus comprises a debris collecting trough and conveyor for receiving and discharging stone dust and particles from under the in-line conveyor. Pedersen discloses a concrete stone-texturing machine that provides a debris collecting trough (42) and conveyor (42') for receiving and discharging stone dust and particles from under an in-line conveyor that prevents accumulation of debris that makes a mess, may

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disrupt operation of the apparatus or may cause unsafe working conditions. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Castonguay invention with debris collecting trough and conveyor for receiving and discharging stone dust and particles from under the in-line conveyor, as taught by Pedersen, to prevent accumulation of debris.

28. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castonguay ('906) in view of Butterworth (1,229,582) as applied to claim 5 and further in view of Ciccarello (Pub.No. 2002/0158363).

29. The combination of Castonguay and Butterworth provides the apparatus as discussed supra, but fails to provide a bottom surface abrading device supported under said stationary horizontal support surface in an opening thereof whereby to expose a section of a bottom surface of said concrete block as it is conveyed over said opening to be abraded by said bottom surface abrading device. Ciccarello discloses an apparatus for roughing surfaces of concrete blocks wherein the abrading device (64') is supported under a stationary horizontal support surface (17 and 18) in an opening (62) thereof whereby to expose a section of a bottom surface of said concrete block as it is conveyed over said opening to be abraded by said bottom surface abrading device.

This orientation allows the surface of the concrete block that is otherwise covered by the support surface to be abraded without the need to remove or reposition the block with in the apparatus. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Castonguay/Butterworth invention

with a bottom surface abrading device supported under said stationary horizontal support surface in an opening thereof to abrade the bottom surface of the block as it is conveyed over the opening, as taught by Ciccarello, to prevent the need to remove or reposition the block with in the apparatus during the abrading process.

Conclusion

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bott (6,540,501), Mori (3,918,210) and Hervey (1,672,938) all disclose methods or machines for roughing the surfaces of bricks or stone blocks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R Muller whose telephone number is (571) 272-4489. The examiner can normally be reached on M-Th and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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